

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

DANIEL S. GREEN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. No. 05-549-KAJ
	)	
RADCLIFFE CHARIES,	)	
BRADFORD APA, LYLE	)	
BRYANT, HORACE DUGGINS,	)	
CPL. WILLIAMS, and CPL.	)	
DANELLI,	)	
	)	
Defendants.	)	

**ORDER**

Defendants Radcliffe Charies, Bradford Apa, Lyle Bryant, and Horace Duggins were dismissed as parties on February 1, 2006, but upon amendment by plaintiff Daniel S. Green ("Green") were reinstated as defendants on March 6, 2006. (D.I. 10, 13.) Green submitted USM-285 forms for service of the reinstated defendants, but it was not clear from the Court's docket that the defendants had been reinstated. As a result, the USM-285 for Radcliffe Charies was returned with the remarks, "terminated as defendant 2/1/06. . . return unexecuted." (D.I. 21.) Service was effected upon reinstated defendants Bradford Apa, Lyle Bryant, and Horace Duggins. (D.I. 16, 17, 19.)

IT IS THEREFORE ORDERED as follows:

1. The Clerk of the Clerk is directed to correct the docket to reflect that Radcliffe Charies, Bradford Apa, Lyle Bryant, and Horace Duggins are reinstated as defendants pursuant to the Court's March 6, 2006, order. (D.I. 13.)

2. The clerk of the court shall cause a copy of this order to be mailed to the plaintiff.

3. Pursuant to Fed. R. Civ. P. 4(c)(2) and (d)(2), plaintiff Daniel S. Green. shall completed and returned to the Clerk of the Court an **original** "U.S. Marshal-285" form for **defendant** Radcliffe Charies. **Additionally, Green shall provide the Court with one copy of the complaint (D.I. 2) and amended complaint (D.I. 11) for service upon Radcliffe Charies. Green is notified that the United States Marshal will not serve the complaint and amended complaint until all documents have been received by the Clerk of the Court. Failure to provide a copy of the complaint and the amended complaint for service upon defendant Radcliffe Charies may result in the complaint being dismissed or defendant Radcliffe Charies being dismissed pursuant to Federal Rule of Civil Procedure 4(m).**

4. Upon receipt of the form(s) required by paragraph 3 above, the United States Marshal shall forthwith serve a copy of the complaint (D.I. 2) and the amended complaint (D.I. 11), this order, a "Notice of Lawsuit" form, the filing fee order(s), and a "Return of Waiver" form upon the defendant so identified in each 285 form.

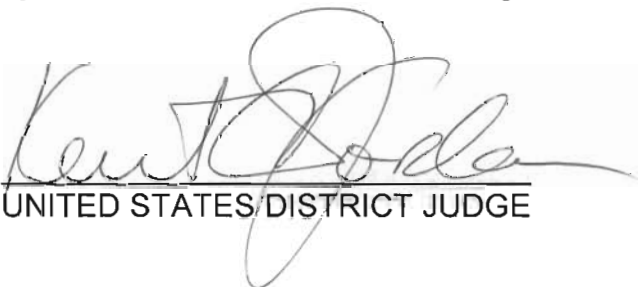
4. Within **thirty (30) days** from the date that the "Notice of Lawsuit" and "Return of Waiver" forms are sent, if an executed "Waiver of Service of Summons" form has not been received from a defendant, the United States Marshal shall personally serve said defendant(s) pursuant to Fed. R. Civ. P. 4(c)(2) and said defendant(s) shall be required to bear the cost related to such service, unless good cause is shown for failure to sign and return the waiver.

5. Pursuant to Fed. R. Civ. P. 4(d)(3), a defendant who, before being served with process timely returns a waiver as requested, is required to answer or otherwise respond to the complaint within **sixty (60) days** from the date upon which the complaint, this order, the "Notice of Lawsuit" form, and the "Return of Waiver" form are sent. If a defendant responds by way of a motion, said motion shall be accompanied by a brief or a memorandum of points and authorities and any supporting affidavits.

6. No communication, including pleadings, briefs, statement of position, etc., will be considered by the Court in this civil action unless the documents reflect proof of service upon the parties or their counsel.

7. **NOTE: \*\*\*** When an amended complaint is filed prior to service, the Court will **VACATE** all previous Service Orders entered, and service **will not take place**. An amended complaint filed prior to service shall be subject to re-screening pursuant to 28 U.S.C. §1915(e)(2) and § 1915A(a). \*\*\*

8. **NOTE: \*\*\*** Discovery motions and motions for appointment of counsel filed prior to service will be dismissed without prejudice, with leave to refile following service. \*\*\*



UNITED STATES DISTRICT JUDGE

May 9, 2006  
Wilmington, Delaware